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PAULEY CONSTRUCTION, INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SIFA TUIAKI and LUPE TUIAKI,

Plaintiffs,

v.

PACIFIC GAS AND ELECTRIC
COMPANY, PAULEY
CONSTRUCTION, INC., TRAFFIC
SOLUTIONS, INC., ADELPHIA
TELECOMMUNICATIONS CO., INC.,
SBC TELECOMMUNICATIONS, INC.,
MOBILE TOOL INTERNATIONAL, INC.
dba TELSTA, COUNTY OF
MENDOCINO, STATE OF
CALIFORNIA, PACIFIC BELL
TELEPHONE COMPANY, PACIFIC
TELESIS GROUP, SBC OPERATIONS,
INC., and DOES 1 to 50,

Defendants.

AND RELATED CROSS-ACTION.

CASE NO.: C07 2257 JCS

**[PROPOSED] ORDER GRANTING
PAULEY CONSTRUCTION, INC.'S.
NOTICE OF MOTION AND MOTION
TO REMAND TO STATE COURT [28
U.S.C. §1447(c)]**

Date: June 22, 2007
Time: 9:30 a.m.
Location: Courtroom A, 15th Floor
Judge: Magistrate Judge
Joseph C. Spero

The hearing on Pauley Construction, Inc's. (hereinafter "Pauley") Motion to Remand to State Court, pursuant to 28 U.S.C. § 1447, on the grounds that removing party, Adelphia Communication Corporation's ("Adelphia") Notice of Removal was defective, came on regularly for consideration on June 22, 2007, before this Court in Courtroom A, 15th Floor of the United States District Court,

1 Northern District of California, located at 450 Golden Gate Avenue, San Francisco, California.

2 The Court, having considered the evidence and moving papers in support of Pauley's Motion
3 to Remand, Opposition and reply thereto,

4 IT IS ORDERED THAT:

5 Pauley's Motion to Remand to State Court (San Francisco Superior Court) is GRANTED
6 without leave to amend, since Adelphia's Notice of Removal was defective, as it was not filed timely
7 pursuant to 28 U.S.C. § 1447(c).

8 Adelphia incorrectly contends in its Notice of Removal, at page 2, paragraph 5, lines 17-20,
9 that "On March 26, 2007, PAULEY demurred to ADELPHIA'S 1st Amended Cross-Complaint, for
10 the first time raising issues arising under the bankruptcy code..."

11 Pauley brought these bankruptcy issues to Adelphia's attention in Pauley's Motion for
12 Judgment on the Pleadings, filed on January 9, 2007, in the San Francisco Superior Court action,
13 entitled *Sifa Tuiaki and Lupe Tuiaki v. Pacific Gas and Electric Company, et al.*, San Francisco
14 Superior Court Case No. CGC-03-419761 (Consolidated with 04-432476).

15 Adelphia should have removed the matter by February 8, 2007, which is 30 days after the filing
16 of Pauley's Motion for Judgment on the Pleadings. Adelphia removed the case too late, after the 30-
17 day time for removal under 28 U.S. C. § 1446(b), so the matter must be remanded back to State Court.

18 IT IS SO ORDERED.

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20 Dated: _____

21 JUDGE OF THE UNITED STATES DISTRICT
22 COURT, NORTHERN DISTRICT OF CALIFORNIA
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